

HOUSE BILL 1788
By Briley

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18 and Title 56, Chapter 7, Part 1, relative to repudiation of insurance coverage.

WHEREAS, the problem of wrongful denials and terminations of first-party disability insurance coverage has become a national problem; and

WHEREAS, the abuse of dilatory tactics by insurance companies seeking to delay and avoid payment of proper claims has apparently become widespread enough to prompt many states to respond with statutorily created remedies for aggrieved policyholders; and

WHEREAS, in light of the inadequacy of contract remedies where an insurer purposefully declines or avoids a claim with reasonable basis for doing so, an insured should have a right to obtain consequential damages for bad faith; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 1, is amended by adding the following as an appropriately designated new section:

Section 56-7-1____. (a) The insurance companies of this state, and foreign insurance companies and other persons or corporations doing business in this state that engage in the business of providing disability insurance and refuse payment of a

disability claim in bad faith shall be liable for breach of duty to investigate, bargain and settle claims in good faith to the amount specified in the policy and shall be liable to pay the holder of the policy for compensatory and consequential damages occasioned by such company's refusal to pay together with costs and reasonable attorney fees.

(b) Notwithstanding any other provision of law to the contrary, the elements of a cause of action justifying a claim of bad faith against an insurer are: (1) insurer was obligated to pay; (2) insurer lacked a reasonable basis in law or fact for denying claim; and (3) insurer either knew there was no reasonable basis for denying claim, or acted with reckless disregard for whether such a basis existed.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.